

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-190

March 2, 2004

MAINE PUBLIC UTILITIES COMMISSION  
Review of Energy East Valuation Analysis  
and Premium Calculation for Central Maine  
Power Company

DRAFT ORDER  
CLOSING DOCKET

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**I. SUMMARY**

By way of this Draft Order the Advisory Staff recommends that this inquiry be closed as no further Commission action on this matter is necessary at this time. In closing this docket, neither the Commission nor its Staff are expressing an opinion on the amount of the acquisition premium being allocated to Central Maine Power Company (CMP or the T&D utility) as specified in Energy East Corporation's (Energy East or the Company) filing or to what extent the allocated acquisition premium will be recoverable from CMP's ratepayers. Comments on the Advisory Staff's recommendation should be filed by March 20, 2004.

**II. BACKGROUND**

The acquisition premium, which was the subject of review at this inquiry, resulted from Energy East's September 1, 2000 purchase CMP Group Inc.'s (CMP Group) 34.44 million outstanding common shares for \$29.50 per share. At the time CMP Group had a book value in the area of \$18.10 per share and when the approximately \$12 million in transactions costs are added in, the total premium paid by Energy East was approximately \$380 million. This amount had to be allocated among the various CMP Group subsidiaries, many of which were unregulated. Energy East hired an appraiser to evaluate these subsidiaries in order to determine how much of the premium would be allocated to them. The remaining amount was allocated to the T&D Utility.

Energy East never formally requested the recovery of any portion of the acquisition premium in the rates of the T&D utility in: *CMP Group, Inc. et al; Request for Approval of Reorganization and Of Affiliated Interest Transactions*, Docket No. 99-411 Order (Jan. 4, 2001), the of Energy East/CMP Group merger approval case. Instead, the Company asked for, and was granted, the right to request recovery of the acquisition premium (or a portion thereof) that was ultimately associated with the regulated T&D utility from its ratepayers at some point in the future. While the merger case was proceeding, the actual amount of the premium that would ultimately be allocated to the T&D utility could only be estimated.

Following the merger, the parties negotiated an alternative rate plan for CMP's T&D utility in: *Central Maine Power Company; Request for Approval of Alternative Rate Plan (Post Merger)* "ARP 2000" Docket No. 99-666. This plan employs a price cap

formula that extends through December 31, 2007 and does not include any portion of the acquisition premium in the rate formula. Because the acquisition premium was not included in the rate formula, it was not necessary to negotiate or to litigate the amount of the premium that was ultimately allocated to the regulated T&D utility at the time ARP 2000 was conceived.

Although Energy East has not requested the inclusion of the acquisition premium in electric rates, the Commission's Advisory Staff felt that it was imperative for the Company to file its analysis as soon after closing as was practical while the information was still fresh in the minds of the parties. On February 2, 2001, the Maine Public Utilities Commission requested that Energy East provide the Maine Public Utilities Commission Staff certain information relating to the valuation analysis conducted by Energy East and its consultants to determine the acquisition premium associated with the merger between Energy East and CMP Group.

Energy East and CMP Group provided the requested information detailing its position on the premium allocation issue on March 30, 2001 following the issuance of Temporary Protective Order No. 1 on March 21, 2001. The filing consisted of: (1) an appraisal report prepared by American Appraisal Associates of Milwaukee, Wisconsin which calculated fair market values for CMP Group's various unregulated subsidiaries; and (2) various calculations made by Energy East allocating the acquisition premium between the various affiliates of CMP Group, including CMP's regulated T&D utility.

In addition to the information provided by Energy East and CMP, during 2000 and 2001, the Commission's Advisory Staff collected a number of non-confidential items, including analyst and press reports referring to NEON and the CMP Group/Energy East merger, NEON financial statements and NEON's share price history over the period. Among other things, these materials include the following information:

1. The total acquisition premium paid by Energy East in its acquisition of CMP Group was roughly \$380 million.
2. On September 1, 2000, the market price of publicly traded NEON Communications stock (NASDAQ symbol NOPT) was \$50.0625 per share and at the time CMP Group owned in excess of 4.5 million common shares.
3. According to NEON's 10-Q Reports, the Company's net book value was roughly \$3.59 per share and \$3.02 per share on March 31, 2000 and September 30, 2000 respectively.

### **III. RECOMMENDATION**

It is our belief that the Company's filing combined with the information compiled by Advisory Staff provides a sufficient record to decide this issue when (or if) that becomes necessary in the future. It is our intention to add the information collected by the Advisory Staff to the case file and close this docket unless the parties feel that there is a compelling reason to do otherwise. We will do so without making any finding on

Energy East's analysis. Temporary Protective Order No. 1, issued on March 21, 2001, will remain in force in the interim. Parties should file any comments regarding this Draft Order by March 20, 2004.

Dated this 2nd day of March, 2004

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Charles Cohen  
Hearing Examiner